

1 **UNITED STATES DISTRICT COURT**
2 **DISTRICT OF NEVADA**

3 MICHAEL V. LUJAN,

4 Plaintiff

5 v.

6 BLACKSTONE CAREER INSTITUTE,
7 ELAINE SMITH,

8 Defendants

Case No.: 3:21-cv-00286-MMD-WGC

Order

9
10 Plaintiff is an inmate within the Nevada Department of Corrections (NDOC), housed at
11 Northern Nevada Correctional Center (NNCC). (ECF No. 1.) He filed a document which appears
12 to state it is both a civil rights complaint under 42 U.S.C. § 1983 and an application to proceed *in*
13 *forma pauperis*.

14 The Local Rules of Practice for the District of Nevada provide: “Any person who is
15 unable to prepay the fees in a civil case may apply to the court for authority to proceed *in forma*
16 *pauperis* (IFP). The application must be made on the form provided by the court and must
17 include a financial affidavit disclosing the applicant’s income, assets, and liabilities.” LSR 1-1.
18 When a prisoner seeks to proceed without prepaying the filing fee, in addition to filing the
19 affidavit, the prisoner is required to submit a certified copy of the trust fund account statement
20 (or institutional equivalent) for the six-month period immediately preceding the filing of the
21 complaint. The statement must be obtained from the appropriate official at the prison or
22 detention facility where the prisoner is or was confined. 28 U.S.C. § 1915(a)(2).

23 When a prisoner brings a civil action IFP, the prisoner is still required to pay the full
amount of the filing fee. The court is required to assess, and when funds exist, collect an initial

1 partial payment of 20 percent of the greater of: (A) the average monthly deposits in the
2 prisoner's account or (B) the average monthly balance in the prisoner's account for the six-
3 month period immediately preceding the filing of the complaint. Thereafter, whenever the
4 prisoner's account exceeds \$10, the prisoner must make monthly payments of 20 percent of the
5 preceding month's income credited to the prisoners account until the filing fees are paid. The
6 funds are to be forwarded by the agency having custody of the prisoner. 28 U.S.C. § 1915(b)(1),
7 (2).

8 The regular filing fee is \$402, consisting of the \$350 filing fee and a \$52 administrative
9 fee. If an inmate does not qualify for IFP status, he must pay the full \$402 filing fee. If the
10 inmate qualifies for IFP status, the \$52 administrative fee is waived, and the inmate will only pay
11 the \$350 filing fee over time.

12 Here, Plaintiff included the required financial certificate, but did not complete the IFP
13 application on the court's required form.

14 The Clerk shall **SEND** Plaintiff a copy of the instructions and application to proceed IFP
15 for an inmate. Plaintiff has **30 days** from the date of this Order to either file his completed IFP
16 application or pay the full \$402 filing fee. The court will construe ECF No. 1 as his complaint.

17 Once Plaintiff has filed his completed IFP application and financial certificate or paid the
18 filing fee, the court will screen the complaint pursuant to 28 U.S.C. § 1915(e)(2)(B) and/or
19 28 U.S.C. § 1915A. Both require dismissal of a complaint, or any portion thereof, that is
20 frivolous or malicious, fails to state a claim upon which relief may be granted, or seeks monetary
21 relief against a defendant who is immune from such relief.

1 If the complaint is dismissed on screening, there will be no refund of the filing fee, and
2 an inmate proceeding IFP is still required to pay the \$350 filing fee over time.

3 If Plaintiff fails to timely file a completed IFP application and financial certificate or pay
4 the filing fee, this action will be dismissed.

5 **IT IS SO ORDERED.**

6 Dated: August 11, 2021

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8 William G. Cobb

9 United States Magistrate Judge
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